

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**IN RE: NATIONAL COLLEGIATE
ATHLETIC ASSOCIATION STUDENT-
ATHLETE CONCUSSION LITIGATION**

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MDL No. 2492

Master Docket No. 1:13-cv-09116

Judge John Z. Lee

Magistrate Judge M. David Weisman

**JOINT MOTION FOR AN EXTENSION OF TIME
TO ADDRESS THE NOTICE PROGRAM**

Settlement Class Counsel and the National Collegiate Athletic Association (“NCAA,” and together with Settlement Class Counsel, the “Parties”) respectfully request a ten (10) day extension of time, until February 9, 2018, to investigate the implementation of the Notice Program and submit a recommendation to the Court on a revised final approval schedule or other steps, as may be appropriate:¹

1. On September 29, 2017, the Notice Administrator filed the Declaration of Rachel Christman Regarding Dissemination of Direct Notice (Dkt. #470), representing that the mailing of direct notice had been completed as of August 9, 2017. The Notice Administrator represented at that time that it had mailed postcards to 3,808,577 Class Members and sent email notices to 1,899,635 Class Members (approximately 1,639,470 of which were also mailed postcards), representing outreach to approximately 4,068,742 unique Class Members.

¹ Unless otherwise defined, capitalized terms have the meaning ascribed to them in the Second Amended Settlement Agreement, which is Exhibit 1 to the joint motion for preliminary approval filed with the Court on May 20, 2016. See Second Am. Settlement Agt. (Dkt. #266-1).

2. The Notice Administrator subsequently discovered that it inadvertently did not mail the postcard notice or send the email notice to 9,239 unique class members, whose records the Notice Administrator received from Frostburg State University. Accordingly, the Parties requested jointly an extension of the schedule for the consideration of final approval of the Second Amended Class Action Settlement Agreement and Release to permit the Notice Administrator to send notice to members of the Settlement Class who attended Frostburg State.

3. Pursuant to the Court's November 13, 2017 Order (Dkt. #481), the deadline for members of the Settlement Class who attended Frostburg State to object or opt out of the Settlement Agreement was January 16, 2018.

4. The November 13, 2017 Order also directed the Notice Administrator to submit a revised declaration as to final implementation of the Notice Program by January 30, 2018.

5. On January 29, 2018 (i.e., just yesterday), the Notice Administrator advised counsel for the Parties that it may have inadvertently failed to provide notice to approximately 15,000 Settlement Class Members who attended at least three other NCAA member institutions.

6. Settlement Class Counsel and the NCAA are concerned about this new, last-minute information, particularly because the Notice Administrator had previously represented to the Parties and their counsel that it had conducted an audit of the Notice Program after discovering the prior error involving members of the Settlement Class from Frostburg State and that no additional problems were uncovered during that audit. It will, however, take several days to investigate the failure and to recommend a remedy to the Court. Accordingly, the Parties respectfully request ten (10) days to submit a recommendation to the Court on next steps.

WHEREFORE, Settlement Class Counsel and the NCAA respectfully request ten (10) days, until February 9, 2018, to investigate the implementation of the Notice Program and submit

a recommendation to the Court on a revised final approval schedule or other steps, as may be appropriate.

Dated: January 30, 2018

Respectfully submitted,

By: /s/ Steve W. Berman (w/ consent)

Settlement Class Counsel

By: /s/ Mark S. Mester

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CERTIFICATE OF SERVICE

I, Mark S. Mester, certify that on January 30, 2018, a true and correct copy of the forgoing JOINT MOTION FOR AN EXTENSION OF TIME TO ADDRESS THE NOTICE PROGRAM was filed through the CM/ECF system, which caused notice to be sent to all counsel of record.

/s/ Mark S. Mester

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